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February 12, 2004

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**ELECTRONIC FILING**

Ms. Marlene Dortch  
Secretary,  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 20054

**Re: *Ex Parte Presentation*, WC Docket No. 02-361**

Dear Ms. Dortch:

Attached please find copies of letters sent to Commissioner Kathleen Abernathy and Commissioner Kevin Martin on February 10, 2004 from the Mid-Sized Carrier Group. These letters address the AT&T access avoidance issue raised in WC Docket No. 02-361. Please contact the undersigned with any questions.

Sincerely,

  
Bradley K. Gillen

February 10, 2004

Commissioner Kathleen Abernathy  
Federal Communications Commission  
The Portals - 445 Twelfth Street, S.W.  
Washington, D.C. 20554

**Re: AT&T access avoidance issue raised in WC Docket No. 02-361**

Dear Commissioner Abernathy:

We are chief executive officers and presidents of several Mid-Size telephone companies that serve primarily rural areas of the country. Ensuring that rural Americans obtain universal access to a modern telecommunications infrastructure and services is critical to this nation's economic vitality. Certainty as to the application of access charges to telecommunications traffic is critical to fulfilling our mission of providing modern and affordable telecommunications service to the public.

We write to urge the Commission to act promptly on and to deny an AT&T Petition for Declaratory Ruling that has been pending at the Commission for 15 months. AT&T is seeking to exempt itself from paying access charges on what it admits to be telecommunications traffic, but which it routes through Internet Protocol ("IP") facilities. This traffic is clearly telecommunications traffic subject to access charges under existing FCC precedent because there is no net protocol conversion between the originating and terminating points of the call. The way we originate or terminate a call on our network for AT&T has not changed, only the way AT&T transports a call *over its own network* has changed. Consequently, this traffic must be subject to access charges under existing FCC regulation.

Allowing AT&T to engage in self-help by withholding access payments on what it admits is telecommunications traffic undermines Commission policies. It also undermines the certainty that the Companies need to attract investment in their networks and promote universal service. Mid-Size Companies are concerned that, if the Commission does not quickly decide the issues raised in the AT&T Petition, other carriers would be pressured into taking self-help measures similar to those taken by AT&T.

Allowing this practice to continue also risks undermining other regulatory policies such as E911 and CALEA. It also has the potential of interfering with the collection of monies for public policy funds, such as universal service. We therefore urge you to expeditiously reaffirm that the traffic referenced in the AT&T petition is in fact subject to access charges and deny the AT&T petition.

Several of us had hoped to have met with you in person to explain to you why deciding this petition now is important. Unfortunately, as you know we had to cancel our meeting of January 27, 2003 due to snow and ice storms in Washington. We would like to spend some additional time discussing these critically important matters with you.

We have asked Mimi Dawson of Wiley Rein & Fielding LLP to reschedule our meeting at your convenience so that we can discuss with you our concerns about access avoidance and the full panoply of VoIP issues. If you have any questions regarding this request, please call the undersigned.

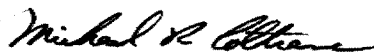
Sincerely,



James Barr, III  
President and Chief Executive Officer  
TDS Telecommunications Corp.



Kenneth R. Cole  
CEO  
Valor Telecommunications



Michael R. Coltrane  
Chairman, President & CEO  
CT Communications, Inc.



Bob Currey  
CEO  
Consolidated Communications, Inc.



Gene Johnson  
Chairman and CEO  
FairPoint



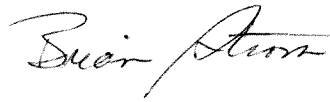
Michael J. Mahoney  
President & CEO  
Commonwealth Telephone Enterprises,  
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Karen Puckett  
President and Chief Operating Officer  
Century Telephone



G. William Ruhl  
Chief Executive Officer  
D&E Communications, Inc.



Brian Strom  
President - CEO  
SureWest



Alan L. Wells  
President and Chief Executive Officer  
Iowa Telecom



Herbert H. Zureich, Jr.  
President  
TXU Communications

cc: Matthew Brill

February 10, 2004

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Federal Communications Commission  
The Portals - 445 Twelfth Street, S.W.  
Washington, D.C. 20554

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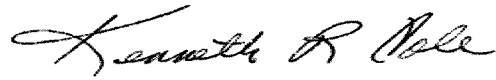
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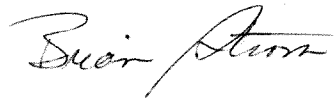
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cc: Daniel Gonzalez